

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

AKORN HOLDING COMPANY LLC, *et al.*¹

Debtors.

Chapter 7
Case No. 23-10253 (KBO)
(Jointly Administered)

LISHA ABRAHAM, SUSAN BERRY and
BENJAMIN SUMMERS on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

AKORN OPERATING COMPANY LLC,
AKORN INTERMEDIATE
COMPANY LLC and AKORN HOLDING
COMPANY LLC

Defendants.

Adversary Proceeding No.: 23-50117-KBO

Objection Deadline:
November 13, 2024 at 4:00 p.m. ET

Hearing Date:
November 20, 2024 at 9:30 a.m. ET

JOINT MOTION OF CHAPTER 7 TRUSTEE AND PROPOSED CLASS REPRESENTATIVES, PURSUANT TO SECTION 105 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 9019 AND 7023 TO: (I) APPROVE THE SETTLEMENT AGREEMENT PURSUANT TO BANKRUPTCY RULE 9019, (II) PRELIMINARILY APPROVE THE SETTLEMENT AGREEMENT PURSUANT TO BANKRUPTCY RULE 7023, (III) CERTIFY THE WARN CLASS FOR SETTLEMENT PURPOSES, INCLUDING THE APPOINTMENT OF CLASS COUNSEL AND THE CLASS REPRESENTATIVES, (IV) APPROVE THE FORM AND MANNER OF NOTICE TO CLASS MEMBERS OF THE SETTLEMENT, (V) SCHEDULE A FAIRNESS HEARING TO CONSIDER FINAL APPROVAL OF THE SETTLEMENT AGREEMENT, (VI) FINALLY APPROVE THE SETTLEMENT AGREEMENT FOLLOWING THE FAIRNESS HEARING, AND (VII) GRANT RELATED RELIEF

¹ The Debtors in these chapter 7 cases, along with the last four digits of their federal tax identification numbers, and cases numbers are Akorn Holding Company LLC (9190), Case No. 23-10253 (KBO); Akorn Intermediate Company LLC (6123), Case No. 23-10254 (KBO); and Akorn Operating Company LLC (6184), Case No. 23- 10255 (KBO). The Debtors' headquarters is located at 5605 CenterPoint Court, Gurnee, IL 60031.

Plaintiffs Lisha Abraham, Susan Berry and Benjamin Summers (the “Plaintiffs” or the “Proposed Class Representatives”), together with George L. Miller, in his capacity as the chapter 7 trustee (the “Trustee” and together with the Plaintiffs, the “Parties”) for the bankruptcy estates (the “Estates”) of debtors Akorn Operating Company LLC, Akorn Intermediate Company LLC and Akorn Holding Company LLC (collectively, the “Debtors” or “Defendants”), by and through their respective counsel, hereby jointly submit this Motion, pursuant to section 105 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 23 of the Federal Rules of Civil Procedure (the “Civil Rules”), applicable hereto by Bankruptcy Rule 7023, for the entry of an Order: (1) approving the *Settlement, Release and Allowance of Claim Agreement* (the “Settlement Agreement”)² pursuant to Bankruptcy Rule 9019; (2) preliminarily approving the Settlement Agreement pursuant to Bankruptcy Rule 7023; (3) certifying the Class for settlement purposes only, including the appointment of The Gardner Firm, P.C., Lankenau & Miller, LLP, and Margolis Edelstein as Class Counsel and Lisha Abraham, Susan Berry and Benjamin Summers as Class Representatives; (4) approving the form and manner of notice of the Settlement to the members of the Class (the “Class Notice”); (5) scheduling a fairness hearing to consider final approval of the Settlement Agreement (the “Fairness Hearing”); (6) finally approving the Settlement Agreement following the fairness hearing (the “Final Settlement Order”); and (7) granting related relief (the “Joint Motion”).

In support of the Joint Motion, the Parties rely upon and incorporate by reference, the accompanying Joint Memorandum of Law in support of this Motion.

² A copy of the Settlement Agreement is attached to the Joint Memorandum of Law as Exhibit A. Unless otherwise defined herein, capitalized terms have the meanings provided in the Settlement Agreement.

Dated: October 18, 2024

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